



Office of the Attorney General  
State of Texas

May 13, 1992

DAN MORALES  
ATTORNEY GENERAL

Mr. Charles Karakashian, Jr.  
Assistant General Counsel  
Texas Department of Public Safety  
5805 N. Lamar Blvd.-Box 4087  
Austin, Texas 78773-0001

OR92-216

Dear Mr. Karakashian:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 15510.

The Texas Department of Public Safety (the "department") has received a request for information relating to the department's Narcotics Service distribution of narcotics in the course of a certain undercover operation. Specifically, the requestor seeks

how many manhours . . . were spent on this operation; how much money was spent on mileage, per diem, lodging, and the purchase of illicit drugs; and, most importantly, what types and quantities of illicit drugs were distributed in the community by the DPS, its agents, operatives and informants.

You claim that the requested information is excepted from required public disclosure by section 3(a)(8) of the Open Records Act.

Section 7(a) of the Open Records Act requires a governmental body to release requested information or to request a decision from the attorney general within ten days of receiving a request for information the governmental body wishes to withhold. You received the first request for information under the Open Records Act on March 19, 1992. You requested a decision from this office on April 1, 1992.

Consequently, you failed to request a decision within the ten days required by section 7(a) of the act.

When a governmental body fails to request a decision within ten days of receiving a request for information, the information at issue is presumed public. *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379 (Tex. App.--Austin 1990, no writ); *City of Houston v. Houston Chronicle Publishing Co.*, 673 S.W.2d 316, 323 (Tex. App.--Houston [1st Dist.] 1984, no writ); Open Records Decision No. 319 (1982). The governmental body must show a compelling reason to withhold the information to overcome this presumption. *See id.* Normally, the presumption of openness can be overcome only by a compelling demonstration that the information should be released to the public, *i.e.*, that the information is deemed confidential by some other source of law or that third party interests are at stake. Open Records Decision No. 150 (1977); *see also* Open Records Decision No. 586 (1991). We have examined your arguments and those presented on behalf of the 83rd Judicial District district attorney and conclude that neither you nor the district attorney have demonstrated that the requested information is deemed confidential by some other source of law or that third party interests are at stake. Accordingly, the requested information must be released.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR92-216.

Yours very truly,



Rick Gilpin  
Assistant Attorney General  
Opinion Committee

RG/GK/lmm

Ref.: ID# 15510  
ID# 15511  
ID# 15827

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